IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL, CIVIL JURISDICTION
WRIT **PETITION (LODG.) NO.2296 OF 2006**

Dr.Kalyan Munde.....Petitioner

Vs.

State of Maharashtra & Anr.....Respondents

Mr.V.M.Thorat, for the Petitioner

Mr.A.A. Kumbhakoni, Associate Advocate General with

Mr. M.D.Naik, AGP for Respondent State.

CORAM: F.I. REBELLO &

& ANOOP V. MOHTA, JJ.

DATE : 28TH SEPTEMBER, 2006.

P.C.

. Rule. Heard forthwith.

2. The respondents had issued brochure for admission in which the number of seats for DM Cardiology in GMC, Mumbai were shown as 3. On behalf of the State Government learned Associate Advocate General points out that the admissions are based on teacher ratio i.e.one teacher for one student. In the instant case though there are four teachers two of them are suspended and as such they can only admit two students whom they have admitted. Under the Brochure issued in July, 2006 the number of seats are only two.

3. The issue, therefore, arises as to whether a teacher who is under suspension can be considered for the purpose of filling in the seat. There were four teachers and therefore four seats. If two teachers are suspended can they be counted for the purpose of filling in the seats. Considering this controversy we have informed both parties that it will be appropriate that the Medical Council of India decides as to whether the teacher who is under suspension can be considered for the purpose of filling in seats. Till such decision by the Medical Council of India respondents can grant provisional admission subject to the decision of M.C.I.

. Learned Counsel for the petitioner has informes that the petitioner herein has been admitted to the course in D.M.Nephrology and that he proposes to give up the same. If his name is considered on merit for D.M.in Cardiology in the event M.C.I. holds that the two seats cannot be filled in, then he takes the risk of losing both the seats. Shri Thorat on taking instructions from the petitioner who is present in the Court states that the petitioner is willing to take such risk. In the light of that the following order:-

(i) Respondents are directed to fill in provisionally the additional two seats for D.M.

Cardiology subject to the decision of the Medical Council of India.

(ii) The respondents to refer the matter to Medical Council of India within one week from today. The Medical Council of India to take decision thereafter within four weeks.

(iii) In the event the Medical Council of India holds that the posts of suspended teachers can be considered for determining the number of seats to be filled in, then the provisional admission to be confirmed. In the event the M.C.I. holds otherwise the provisional admission granted to the students so admitted to be cancelled.

(iv) Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA, J.)